

JUN 6 1996

## CERTIFIED MAIL.

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code and have determined that you do not qualify for exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

The information submitted indicates that you were incorporated on [REDACTED]. Your purposes as stated in your Articles of Incorporation are: The preservation and promotion of custom, antique and classic vehicles, street rods and special interest vehicles and to do all things which nonprofit corporations are permitted to do under the Nonprofit Corporation Law [REDACTED].

You are a membership organization with three classes of membership. Regular members are those members who pay dues and subscribe to the duties and regulations of membership. Honorary membership may be conferred on any member or non member by unanimous approval of the officers on a year-by-year basis. Honorary membership shall carry all the privileges of regular membership except no annual dues are required and no club rights are endowed. Co membership includes immediate family (spouse and children under 18) of a member. There is no membership fee for co members and they may not vote or hold office.

Your income is derived from raffles, membership dues, car show ticket sales, dinner, vendors, car entrants, spectators, food sales, and a carnival.

Disbursements consist of raffle car expenses, duce ads and related expenses, car show car rental expenses, car show security, signs and posters, trophies and plaques, car show entertainment, programs, fairgrounds rental, car show entertainment, paid car show workers, food booth supplies, postage and stationery, and to charitable and other expenses for the benefit of members i.e. membership, jacket and shirts, members' entertainment.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]				
Date	5/13/96	6/21/96	6/6/96				

Your main activity is a "██████████" held annually which consists of a custom car show, swap meet, dance, concerts, car raffle, and other related activities of interest to the 50's custom car hobbyist. This is a two day event opened to the general public. Other activities held during the year include dances and attendance at custom car shows for the purpose of selling raffle tickets for the custom car that is purchased by the club and raffled on the last day of the "██████████."

The general public is invited to participate in your annual "██████████." Your treasurer, ██████████, has stated that you advertise extensively for your two day event via radio, television and newspaper. In your response to our request for additional information, you stated that persons do not have to become members of your organization to participate in club activities, such as the annual car show and your dances.

Of the organization's gross receipts of \$██████████ for the year ██████████, \$██████████ or ██████████% was from nonmembers. This nonmember income was deposited into the treasury and used to pay operating expenses of the club, expenses connected with your fundraisers and to make donations to the charities approved by the general membership. You also stated that your membership has not expressed a desire to discontinue activities that generate income from nonmembers.

Section 501(c)(7) of the Internal Revenue Code exempts from Federal income tax, clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inure to the benefit of any private shareholder.

Section 1.501(c)(7)-1 of the Income Tax Regulations provides as follows:

- (1) The exemption provided by Section 501(a) for organizations described in section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, but does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenues from members through the use of club facilities or in connection with club activities.

(b) A club which engage in business, such as making its social and recreational facilities available to the general public - is not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, and is not exempt under Section 501(a). Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes.

Revenue Ruling 58-589 published in Cumulative Bulletin 1958-2, page 267, holds that a club will not be denied exemption merely because it receives income from the general public; that is, persons other than members and their bona fide guests, or because the general public on occasion is permitted to participate in its affairs, provided such participation is incidental to or in furtherance of its general club purposes and it may not be said that income therefrom is inuring to members. This is generally true where the receipts from non-members are not more than enough to pay their share of the expenses.

Revenue Ruling 68-119, published in Cumulative Bulletin 1968-1, page 268, holds that a club will not necessarily lose its exempt status if it derives income from other than bona fide members and their guests, or if the general public on occasion is permitted to participate in its affairs, provided such participation is incidental to and in furtherance of its general club purposes and the income therefrom does not inure to members. The equestrian club considered in this ruling held an annual steeplechase which was open to the general public. Prize money was paid from entry fees paid by participants, and general expenses of the meet were paid from admissions and sale of programs and refreshments. The club distributed any net proceeds from the meet to charity. Therefore, it was held the meet was not operated to make a profit, and the income from non-members did not inure to the benefit of members. The club's exemption was not jeopardized by non-member participation in its annual meet.

Public Law 94-568 as explained in Senate Report No. 94-1318, published in Cumulative Bulletin 1976-2, page 597, provides that a club exempt from taxation and described in section 501(c)(7) is to be permitted to receive up to 35% of its gross receipts from a combination of investment income and receipts from non-member (from the use of its facilities or services) so long as the latter do not represent more than 15 percent of the total receipts. It is further stated that if an organization exceeds these limits, all of the facts and circumstances must be considered in determining whether the organization qualifies for exempt status.

In liberalizing the amount of non-member income that could be received by social clubs, Congressional Committee Reports state that the amendment (Public Law 94-568) was not intended to permit social clubs to receive, even within the allowable guidelines for outside income, income from the active conduct of businesses not traditionally carried on by social clubs. (Senate Report No. 94-1318 2d Session, 1976-2 C.B. 596.)

Revenue Ruling 65-63, published in Cumulative Bulletin 1965-1, page 240, holds that a non-profit organization which, in conducting sports car events for the pleasure and recreation of its members, permits the general public to attend such events for a fee on a recurring basis and solicits patronage by advertising, does not qualify for exemption as a club organized and operated exclusively for pleasure, recreation and other non-profitable purposes under section 501(c)(7) of the Internal Revenue Code of 1954.

On the basis that the purposes of your organization as stated in your Articles of Incorporation are broader than it is allowed under section 501(c)(7) of the Internal Revenue code; that your organization has exceeded the permitted levels of income from nonmembers; that the net income from nonmembers was not separately maintained and donated to charity but was added to the club's general treasury to pay the operating expenses of the club before donations were made to charities; that the amounts spent by the organization for the benefit of its members exceeded the amounts received from member dues; that the organization regularly solicits public patronage of its events and expects to continue to do so, and; that income from nonmembers has inured to the benefit of members in the past and can be expected to benefit them in the future, the organization fails to meet both the organizational and operational tests of section 501(c)(7) of the Internal Revenue Code.

Therefore, we have concluded that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(7) of the Code. In accordance with this determination, you are required to file Federal income tax returns on Form 1120.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax authorization with us.

  
Page 5.

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination on this matter.

Appeal submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

  
  
District Director

Enclosure: Publication 892